

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JAMES PETTUS,

Plaintiff,

04-CV-6260 CJS

-v-

DECISION AND ORDER

DEPUTY BARTLETT, et al.,

Defendants.

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INTRODUCTION

This is an action pursuant to 42 U.S.C. § 1983 in which the plaintiff, a prison inmate, alleges that defendants violated his federal constitutional rights. Now before the court is a motion [#104] by plaintiff, asking the Court to set a trial date. For the reasons that follow, the application is denied.

BACKGROUND

The facts of this case were set forth in prior decisions of this Court. It is sufficient to note that on March 23, 2007, the Court issued a Decision and Order [#100] which, *inter alia*, denied defendants' motion to dismiss, allowed plaintiff to amend his complaint, directed that all discovery be completed by June 19, 2007, and also directed that any summary judgment motion be filed and served on or before July 19, 2007.

On April 12, 2007, the Court received the subject motion [#104] from plaintiff, proceeding *pro se*, apparently filed in response to the Court's Decision and Order. Liberally construing plaintiff's papers, he believes that this case has been delayed unnecessarily, and that defendants should not be permitted to file a summary judgment motion, since they already had the opportunity to file a dispositive motion. Instead, plaintiff maintains, the Court should simply schedule the matter for trial.

ANALYSIS

In its prior Decision and Order [#100], the Court gave a detailed explanation of the unusual procedural history of this case, and the reasons why it was permitting defendants to file a successive dispositive motion. While the Court is sympathetic to plaintiff's wish to have this matter resolved, he has provided no reason for the Court to change its prior ruling.

CONCLUSION

For the foregoing reasons, plaintiff's application [#104] is denied.

So Ordered.

Dated:           Rochester, New York  
                  June 13, 2007

ENTER:

/s/ Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge